

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc.Writ Petition No. 1729 (S/S) of 2001
(Old No. 35278 of 1993)

Hukum Singh Pharshwan

----- Petitioner

Versus

Prabhagiya Logging Parbandhak,
U.P. Van Nigam, Pauri, District-
Pauri Garhwal and two others.

----- Respondents

Hon'ble P.C.Verma, J.

By means of this petition the petitioner has challenged the impugned orders dated 25.08.1993 and dated 09.09.1993, contained as Annexures Nos. 3 & 4 respectively to the writ petition, by which the petitioner was relieved for seasonal leave and was asked to hand over charge.

During the pendency of this writ petition the services of the petitioner were retrenched on 24.03.1995 on the ground of shortage of work. The petitioner sought for amendment of the writ petition, which was allowed. The petitioner further prayed to issue writ of certiorari to quash the impugned retrenchment order dated 24.03.1995 passed by the respondent No. 1.

The case of the petitioner is that he was working since 1984 on the post of Scaler in Van Nigam on daily wages basis and since 1989 to March 1990 the work of Area Assistant was also taken from him. He was regularly selected on the post of Scaler on 03.03.1990 but he was being paid wages of daily wager. On 24.03.1995 the services of the petitioner were retrenched without prior notice.

Admittedly, while effecting retrenchment, the provisions of Sec. 25-N of the Industrial Disputes Act have not been followed. There is also violation of provisions of Sec. 6-N

of the U.P. Industrial Disputes Act. Therefore, the retrenchment order is bad in the eye of law and it cannot be sustained.

This Court in its judgment dated 21.08.2003 in ***Writ Petition No. 1376 (M/S) of 2001, Jabar Singh and eleven others versus Presiding Officer, Labour Court and three others*** has held that the Forest Corporation is an industrial establishment within the procedure prescribed in Chapter V-B of Industrial Disputes Act. Therefore, before effecting the retrenchment, the provisions of Section 25-N of the Industrial Disputes Act must be complied with. Since the retrenchment order has been passed without complying the provision under Sec. 25-N, the order is void ab initio.

The writ petition is allowed. The retrenchment order dated 24.03.1995, contained in Annexure No.6 to the writ petition, is quashed so far as it relates to the petitioner. The petitioner shall be allowed to work but he will not be paid any back wages. No order as to costs.

30.09.2003

P.Singh

(P.C. Verma, J.)